

LAKE COUNTY BOARD of ADJUSTMENT
August 8, 2018
Lake County Courthouse Commissioners Office (Rm 211)
Meeting Minutes

MEMBERS PRESENT: Don Patterson, Frank Mutch, Steve Rosso, Mary Jensen, Merle Parise

STAFF PRESENT: Jacob Feistner, Rob Edington, Clint Evenson, Tiffani Murphy, Lita Fonda; Wally Congdon

Frank Mutch, chair, called the meeting to order at 3:07 pm

VINCENT CONDITIONAL USE—MASUMOLA (3:07 pm)

Rob Edington noted that John & Brenda Vincent were present along with their agent Earl Hanneman from Carstens & Associates and presented the staff report. (See attachments to minutes in the August 2018 meeting file for staff report.) He clarified on pg. 5, #7 that the wastewater treatment application has been submitted. Typically on this kind of review, zoning conformance would not be issued until the septic had been approved. Staff didn't want them to build something that they could not then get sanitation approval for or vice versa. Frank checked with the applicants, who had no comments.

Public comment opened: None offered. *Public comment closed.*

In #6 of the conditions, Steve changed 'removed' to 'managed' in the 4th line, and added 'or adjacent property' after 'subject property' in the 5th line.

Motion made by Frank Mutch, and seconded by Don Patterson, to approve the variance with findings of fact and conditions as amended. Motion carried, all in favor.

ROUSSEAU/ SILVA CONDITIONAL USE—FINLEY POINT (3:17 pm)

Clint Evenson presented the staff report. (See attachments to minutes in the August 2018 meeting file for staff report.) He noted that Lise Rousseau was present.

Clint clarified for Frank that Planning staff could not change a setback requirement. The setback was 50 feet from the County road right-of-way. If this was placed as proposed, it would be 39 feet from the right-of-way. The conditional use was to allow industrial fruit processing. He wanted to bring it up since Lise was interested in this topic and might want to discuss this issue. Jacob clarified the variance wasn't on today's table. The proposal would either have to comply or she'd have to come back for a variance. Steve asked how this was addressed in the report. Clint explained this report was for the conditional use to allow the industrial uses and fruit processing on the property. The zoning conformance application would then allow for the placement of the structure, which was where setbacks would be addressed. [If setbacks weren't met,] a variance would be required. Jacob added that setbacks still applied to unmaintained county roads.

Lise Rousseau commented about her application. She had no issue with the report. At some point she and her husband would like to pursue the variance on the road. It was barely maintained, with maintenance done by herself and her husband, including snow removal and addressing potholes. They also owned the parcel directly across from where the building was proposed so there was some continuity across the road. Although Brian Campbell didn't mention it in his support letter, he had stated he would happily write a letter of support for them to acquire a setback variance. His was the only other property that had a physical issue with that. She understood that wasn't before the Board today but wanted them to understand she hoped to do that. As far as the building interrupting people's viewscape or being where people would know it was there, [this] would change if the building was moved, so she thought that was pertinent. They felt the location they favored was the least impactful for the neighborhood.

Regarding how they would distribute their product and if they would have an issue with no sale or distribution from this building, Lise replied to Steve that they had no issue. She didn't want to have a store on her property. They did offer U-pick in the summer, which was part of their orchard operations. They would do farmers markets and use the distributor they used for their fresh and dried fruit and the other products that they made.

Public comment opened:

Ric Smith spoke in support of the proposal. He realized the variance was not the subject at the moment but for the reasons Lise mentioned, he also would support that. He was concerned about the industrialization of Finley Point and would talk to the Commissioners about that. He supported the applicant and thought the variance made sense from a viewshed perspective.

Public comment closed.

Motion made by Steve Rosso, and seconded by Mary Jensen, to approve the conditional use along with the findings of fact. Motion carried, all in favor.

SPRUNK CONDITIONAL USES—FINLEY POINT (3:30 pm)

Tiffani Murphy presented the staff report. (See attachments to minutes in the August 2018 meeting file for staff report.) She noted that agent Jeff Gallatin was present. Jeff Gallatin had no comments to add.

Public comment opened: None offered. *Public comment closed.*

Steve thought it was important to distinguish between various buffers, such as the vegetative buffer along the lake and the visual or sound buffer for the neighboring property. He proposed changes to the findings and conditions:

- Pg. 14, #4.iv: Add 'natural visual/sound' after 'A' at the sentence beginning. Frank suggested saying 'vegetative'. He referred to #9, which also mentioned this. Tiffani commented this was for possible visual impacts. Jeff didn't know of an objection to 'vegetative'. Natural vegetation seemed best. Tiffani noted

there'd been no comment from the neighbor to the north. Jeff knew the northern neighbors. This was the back side for them, with their mechanical and a small BBQ patio.

- Pg. 15, #7: To the end, add 'as long as a vegetative visual and sound buffer is developed on the north side of the guest house and an adequate stormwater management plan is implemented, and all outward lighting is directed downward and shielded as to not project onto the neighboring properties.'
- Pg. 16, #2: Replace '+/-' with 'approximately' in the second line.
- Pg. 16, #4: Add 'natural vegetative visual/sound' prior to 'buffer plan'.

Tiffani clarified for Frank and Mary that attachment 2 was from the agent, as mentioned in the staff report, item #3 (pg. 10).

Motion made by Frank Mutch, and seconded by Merle Parise, to approve the conditional uses per the staff report as amended. Motion carried, all in favor.

HB AG INVESTMENTS VARIANCES—FINLEY POINT:

Rob Edington presented the staff report. (See attachments to minutes in the August 2018 meeting file for staff report.) Agent Jeff Gallatin was present. Rob had also had numerous conversations with Rich Graves, the architect.

Steve checked with Rob that if the width was reduced on the north side, the required variance would be one foot, although this wasn't reflected in the conditions. The height in the conditions was reduced from 21 feet to 18 feet but the northern setback had stayed at the requested 10 feet from the northern boundary line. Rob pointed to the site plan, and where they turned around and [the space] to back a boat trailer. It was a tight area. He also took into consideration that lot 3 was owned by the applicants. Another possibility was a boundary line adjustment. He confirmed that the lots [under this ownership] came up as one on Cadastral. They were separate parcels in the tract book and could legally be sold separately, which was why the variance to setbacks was required. An aggregation took away the ability to sell the parcels separately. If they did a boundary line adjustment, there was still sufficient lakeshore to meet the minimum requirement. A discussion on the possibility came up during the first variance request.

Frank asked about the villa strips. Rob described there would be a condition that if the development was on the boulevard strip, they would need to obtain an encroachment permit from the Board of Commissioners. He pointed to condition #5. It was possible they would have to move the structure outside it if the Commissioners did not give that approval.

Rob verified for Mary that no second story was proposed for the proposed boat house. The pitch of the roof might be considered more aesthetically pleasing if it matched the single-family residence that they're currently developing. Planning staff had the challenge to address the standards of evaluation for a hardship for a variance, and they were not able to recommend that.

Agent Jeff Gallatin pointed to attachment 5. He'd discussed with Rich, the architect, that having the floor level at the bottom of the doors was actually where the rail system would come in. He talked about how this might affect the height. A deck for storage would be in the interior of the boathouse, which would be vaulted for headroom. Given Steve's query on how the garage door in the back would be affected, Jeff supposed that [Rich] was just lowering the doors and it would not affect the height. Steve and Jeff summarized they were talking about the 21-foot [height] or adjusting the pitch.

Frank thought boat house height would continue to come up as boats got taller. Jeff said they needed at least a 10-foot tall door. To accommodate for the rails and the cart, the door would need to be almost 12 feet.

Steve returned to the width and the viability of reducing it. He reviewed the floor plan and dimensions. If they reduced the width of the building at 24 feet, they'd have a hard time having a 12-foot wide door and a 10-foot wide door. Jeff said they'd have no structure on the front. The roof pitch was an 8/12. He received a sketch from Rich today, of what they'd be willing to do if the proposed pitch that matched the cabin wasn't allowed. It was a 4/12 pitch, which would cut off 4 feet. Frank clarified with Jeff that [the structure] was below the elevation of the land behind it. He thought it would blend in. Jeff estimated the guest house was 80 feet from this, in response to Steve's question. It had a pitched roof. The one gabled end faced the lake. Both were 8/12. The owners preferred to match that. Frank saw no advantage to changing the pitch. It might be better aesthetically if they matched. Steve said they had an obligation to grant the minimum variance required. If the owners were okay with a 20-foot building instead of a 24-foot one, it seemed like that was what they were required to do. Jeff said if they could determine the minimum height the Board would be happy with, they could design around that.

Rob mentioned discussion with the architect, who mentioned they were looking for a boat on which they could put a ski rack. The single-family residence was 22 feet tall. Mary checked if the ski rack was collapsible. Jeff affirmed, but it wasn't convenient for storage for seasonal use. Frank said he was in favor of a larger boathouse. As technology changed, new boats might be larger. Steve referred to a comment in the staff report about the possibility of the issue of disturbing 25% slopes. He referred to photos and drawings. Jeff described that the back of the boat house would probably retain about 3 to 4 feet of that bank. He described where the back wall was actually a retaining wall. It wasn't that accurate on the east elevation. He described further. Jacob understood that they were keeping it towards the lake to avoid [slope disturbance]. Jeff clarified on the driveway that it would end at the cabin.

Public comment opened: None offered. *Public comment closed.*

Steve said if they opted for the revised boathouse plan with the 4/12 pitch, the overall height would be reduced by 4 feet from the 21 foot requested variance to 17 feet. The 18 feet that Rob had [in the report] would certainly be met. Steve thought the impacts of compromising the setback by 5 feet here were pretty small. Frank checked that the

members were okay with the setback, who murmured that they were. On height, he thought the 21-foot height might be more aesthetically pleasing, and it wouldn't stick up by itself with the land behind it. That was true if it was lowered as well. Steve said that based on the rules, they were to provide the minimum variance required to alleviate the hardship. The owners said they wouldn't mind having the lower slope. The variance would be 6 feet in that case instead of 9 feet, as Rob had written it. Jeff highlighted they would prefer to match the guesthouse. Frank understood they could interpret things broadly if it looked like it was a reasonable and acceptable impact. Jacob suggested with 18 feet, they could take the pitch to a 5/12. It was closer to what the house was and gave more pitch to shed. Merle said to leave it as is.

On pg. 19, item g in the first full paragraph:

Steve eliminated 'the width to 24 feet and' in the 7th line.

Frank eliminated 'to a 5:12' in the 7th line.

Steve ended the sentence in the 8th line after 'average height, deleting the rest of the paragraph.

Motion made by Steve Rosso, and seconded by Mary Jensen, to approve the variances as stated in the conditions and the findings of fact [as amended]. Motion carried, all in favor.

HATFIELD ET AL CONDITIONAL USE—FINLEY POINT (4:27 pm)

Clint Evenson presented the staff report. (See attachments to minutes in the August 2018 meeting file for staff report.) To address the public comment about the school bus, he pointed to the condition [#2] that only one temporary structure was allowed to be on the property. Don confirmed that a school bus was on the property. Clint clarified the concern was whether it was being used as a temporary building. He didn't know if it had a license plate, in answer to Frank's question. It had been driven in the last 3 months. It wasn't there at the time of the site visit.

Per questions, Clint elaborated on the 5-foot road easement (Nellie Avenue) mentioned on pg. 1 of the staff report. It was a strange easement on the southern portion of the applicants' boundary that wasn't really [related] to this discussion. This was an unmaintained county road. Jacob added it was very narrow. It looked like they'd platted the extra 5 feet in case it was needed in the future.

Clint confirmed for Steve that a zoning conformance had been issued to construct a residence. It was issued in late 2017 or early 2018 for one year, and they could apply for an extension year. He thought preliminary clearing had started and they were beginning to bring materials up there, which was part of the difficult portion of the construction, as it was very steep at the initial portion of Nellie Road. It looked as if the beginning portions of construction were in process. He wasn't aware of other users of the old Strawberry Lane other than the applicants. It had been abandoned, which meant from the center line, it was split to the east and west property owners. The people to the east didn't use it.

In response to Board questions, Clint said staff became aware of [this usage] in July. The applicant then came in with the conditional use and fees. With this approval, he would be within the law.

Applicant Chuck Hatfield introduced applicant Amy Kloppenberg. They purchased this land 2 years ago. They finished remodeling and selling their house in Colorado on June 25. They purchased a school bus locally and were using it as temporary storage until they had some structures. No one was living in the bus. There was no room in it. Amy added it was hard enough to live in an RV. Chuck said their intent was good. Where the trailer sat, he had [inaudible] last summer. Everybody came out and looked at it. They put in septic, water and power. Things were approved and he thought he was going 100% by the book. The trailer was in place. It was dropped off last summer. To his knowledge, the land on their eastern border was conservatory and they weren't impacting that where [the trailer] sat. They had a limited amount of buildable space at the front of the lot. It made the most sense to put it there. He'd been making a lot of little trips to get done what he had so far to make it more bearable once they got here. He was just asking that they could stay in it.

Frank checked that it was a part-time place to camp, for maybe a month. Amy said a couple of days. Chuck said they came through in June and dropped off a few things. They moved up after the house closed in Colorado. It had been their residence since that time. They were tied to an approved septic system. It was a shared well with 3 places on it. Mary checked on the timeframe for staying there. Jacob explained this request was for a solid 2-year construction period. For the 6-month provision, they would still need permission. Steve estimated they'd been occupying the trailer for 6 or 7 weeks, with the trailer parked there prior to that and with occasional weekend work visits. Chuck described that he hadn't educated himself enough to know that this would be an issue. He hoped the Board would grant the request. Considering where it was, he did base his infrastructure as to where it sat for the temporary hookups. He didn't share that portion of the property on the very far east side. No one needed access to it. Mention was made of a bright light [in the public comment]. He didn't understand that. It did have a standard light on the side that they didn't use once they discovered the complaint. It was over 400 feet to the next structure. [The area] was heavily wooded.

Regarding public comment, Frank noted the discussion had been staying right within the parameters of this zoning/conditional use request. They didn't need to get into the history of issues that had nothing to do with zoning. The Board members had read the neighbors' comments.

Public comment opened:

Dmitri Chafonov kindly spelled his name. He was a neighbor to the west, skipping a parcel. He was using the easement road. The applicants were good neighbors. He was glad they were building a house. He was helping them. He hadn't seen them living in the bus.

Chuck mentioned he thought Judith Bromley emailed in support. Clint confirmed this comment in favor. (See attachments to minutes in the August 2018 meeting file for comment copy.) Lita realized she might have forgotten to copy it. Frank repeated for the Board that Judith Bromley was in favor. Clint described that she lived to the south, across Nelly Road. Chuck said she was actually in pretty close proximity and could see part of the 5th wheel. He reported she was okay with it and had not seen light shining in her windows.

Dmitri noted he had a light on their garage for 35 years. Frank said lighting was subjective. All lights have some glare. The idea was to try to make it nonintrusive. Dmitri described motion lights on his chicken coop and garage that the deer triggered.

Chuck said he and Amy were glad to be here and felt they could make a great addition to Finley Point. Steve and Mary asked where Cindi Khongwiset lived. Dmitri said she had the parcel between the applicants and him. Steve referred to the letter from Cindi that the Board members received today. (See attachments to minutes in the August 2018 meeting file for comment copy.) He asked Chuck to address the 20 feet of bushes and trees that were cut down.

Chuck suggested they look at the history they had of Cindi, and take that into consideration. He hadn't found validity to what she said. He welcomed any of them to visit the property and look for proof of her claims. She'd been crossing into their property for some time. He and Amy needed a way to distinguish their property line, which was surveying by Jack Duffey when they purchased the property from Shirley Porter. Jack set stakes, which were ripped out and Cindi had her friend resurvey. A property pin that was in the front at the time of purchase disappeared by the time they returned. He described how he mowed yesterday to the best of his ability by the property line, straight and conscientious of what he was doing. They came out, spray-painted and were antagonistic. He immediately went to the middle of the property to work there. The sheriff arrived, which he expected from the pattern. When he looked later at what she'd painted, it went 15 feet into his property and included trees, lines zigzagging back and forth [and] on the property line. Dmitri had offered to help him find the pins. They finally found the head of it buried with rocks, 8 to 10 inches down. The head of the pin was smashed and completely destroyed. He speculated that this neighbor didn't want him to know where the property line was. He was looking at getting it resurveyed, with pins set in probably 50 feet and getting a permanent fence line. He wanted to stop the nonsense and live and let live. He and Amy were up here to make a life.

Steve asked if the sheriff had visited with him at yesterday's visit. Chuck replied that he described what he was doing to the sheriff. They talked about the property line, and he'd mentioned he'd reached out to Dane Hollinger and was planning to have Jack Duffey resurvey that side of the property.

Public comment closed.

Steve commented that some concerns had been alleviated. He suggested a change on pg. 11, item #6: Add 'As proposed and required by staff's suggested conditions of approval'. On pg. 12, condition #2, Steve asked when the clock started for the 2 years if the Board approved this. Jacob said it depended how long it took the applicant to meet the conditions of approval. There were some conditions to meet prior to issuance of the zoning conformance.

Chuck asked about a condition to meet with regards to Environmental Health. Clint clarified that the Planning Dept. just wanted comment from Environmental Health about the project. Jacob added they wanted to make sure the approval included an RV using that septic system.

Steve concluded it sounded like the timeframe between the approval of the conditional use and the zoning conformance was within the next few weeks. He checked with the applicants that they were good with the 2 years if it started today. Chuck affirmed. The plan for the house construction was to get the slab and foundation this year and get back to it in the spring. He thought they would be able to live in at least a portion by next fall. He didn't want to box himself in with time constraints and extensions. Clint said an extension was still available.

Mary checked that the applicants' intent was to be able to live in the trailer from today until they moved into the new house. Chuck confirmed this. At that point, he would still want to store the 5th-wheel on the property but had no intent to live in it. Steve checked with the Board that condition #2 was good for them.

On pg. 13, item #13, Steve asked which process the extension referred to. Jacob explained this was to give them enough time to meet the conditions of approval before the zoning conformance was issued. In this case, a very short time would probably be needed.

Motion made by Steve Rosso, and seconded by Mary Jensen, to approve the conditional use with the findings of fact as changed. Motion carried, all in favor.

Jacob reminded everybody who got an approval to read the conditions of approval and become very familiar with them.

MINUTES (5:05 pm)

Steve noted there was a previously deleted note on the last page.

Motion made by Frank Mutch, and seconded by Don Patterson, to approve the February 14, 2018 meeting minutes as written. Motion carried, all in favor.

OTHER BUSINESS (approx. 5:07 pm)

Discussion of the status of a previous item, Blake-Gibson, was discussed.

Frank Mutch, chair, adjourned the meeting at 5:10 pm.